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EXAMINER

NAJARIAN, LENA

ART UNIT	PAPER NUMBER
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3626

MAIL DATE	DELIVERY MODE
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09/20/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/776,484

Applicant(s)

YING ET AL.

Examiner

Lena Najarian

Art Unit

3626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-5,7-17,19-21,23,25-27,29,30,32 and 34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,7-17,19-21,23,25-27,29,30,32 and 34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 20070816
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the Request for Continued Examination (RCE) filed 8/16/07. Claims 1, 9, 17, 23, 25, and 32 have been amended. Claims 2, 6, 18, 22, 24, 28, 31, and 33 have been canceled. Claims 1, 3-5, 7-17, 19-21, 23, 25-27, 29-30, 32, and 34 are pending.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1, 3-5, 7, and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

(A) Claim 1 recites "wherein formatting said medical records comprises providing ergonomic actuators... within said medical records...." It is unclear to the Examiner how the step of *formatting* provides ergonomic actuators *within* medical records. Clarification is required.

(B) Claims 3-5, 7, and 8 incorporate the deficiencies of claim 1, through dependency, and are also rejected.

Art Unit: 3626

4. Regarding claims 1 and 9, the phrase "displayable" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 4-5, 7-9, 15-17, 19, 21, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ballantyne et al. (5,867,821) in view of Brown (5,918,603).

(A) Referring to claim 1, Ballantyne discloses a method of presenting medical records for use by a medical provider, comprising (col. 10, lines 10-20 of Ballantyne):

formatting medical records for presentation on a mobile terminal (col. 14, lines 6-39 of Ballantyne);

and moving between different screens containing different classes of medical information regarding an associated patient (col. 9, lines 16-32 of Ballantyne).

Ballantyne discloses a touch screen (col. 9, lines 16-20) but does not expressly disclose providing ergonomic actuators, displayable on the mobile terminal within said

Art Unit: 3626

medical records, wherein each ergonomic actuator is large enough to allow actuation via a user's finger.

Brown discloses providing ergonomic actuators, displayable on the mobile terminal within said medical records, wherein each ergonomic actuator is large enough to allow actuation via a user's finger (Fig. 3, col. 4, lines 49-54, and Fig. 12 of Brown).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the features of Brown within Ballantyne. The motivation for doing so would have been to provide a user-friendly interface.

(B) Referring to claim 4, Ballantyne discloses further comprising delivering one or more of said formatted medical records to a personal digital assistant (Fig. 1, item 10 and col. 3, lines 60-65 of Ballantyne).

(C) Referring to claim 5, Ballantyne discloses further comprising extracting said medical records from a hospital database prior to formatting said medical records for presentation on the mobile terminal, wherein extracting said medical records includes determining structure of the hospital database (col. 3, line 60 – col. 4, line 3 and col. 6, lines 16-19 of Ballantyne).

(D) Referring to claim 7, Ballantyne discloses accepting input from the mobile terminal to update one or more of said medical records (col. 12, lines 31-47 of Ballantyne).

(E) Referring to claim 8, Ballantyne discloses updating through the mobile terminal at least one of the medical records (col. 12, lines 31-47 of Ballantyne).

(F) Referring to claim 9, Ballantyne discloses a method of presenting information to medical providers comprising (col. 10, lines 10-20 of Ballantyne):

Art Unit: 3626

providing each of a plurality of medical providers with a mobile terminal (col. 3, lines 60-65 of Ballantyne);

formatting the information to be presented in its entirety on each of the mobile terminals, wherein the formatted information includes lab result information, vital sign information, and prescription information (col. 14, lines 6-39, col. 4, lines 35-36, col. 11, lines 18-22, and col. 17, lines 27-31 of Ballantyne; the Examiner interprets "temperature" and "pulse rate" to be forms of "vital sign information"); and

delivering the formatted information in its entirety to one or more of the mobile terminals (col. 10, lines 10-27 of Ballantyne); and

storing said reformatted medical records in a computer memory of a mobile terminal (col. 15, lines 22-32 of Ballantyne).

Ballantyne discloses a touch screen (col. 9, lines 16-20) but does not expressly disclose wherein the delivered information is associated with respective user-selectable ergonomic features displayable, on the mobile terminal, to invoke display of information and wherein each ergonomic feature is large enough to allow actuation via a user's finger.

Brown discloses wherein the delivered information is associated with respective user-selectable ergonomic features displayable, on the mobile terminal, to invoke display of information and wherein each ergonomic feature is large enough to allow actuation via a user's finger (Fig. 3, col. 4, lines 49-54, and Fig. 12 of Brown).

Art Unit: 3626

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the features of Brown within Ballantyne. The motivation for doing so would have been to provide a user-friendly interface.

(G) Referring to claim 15, Ballantyne discloses wherein delivering the information to one or more of the mobile terminals comprises delivering the information to the mobile terminals through a docking station (col. 13, lines 57-63 of Ballantyne).

(H) Referring to claim 16, Ballantyne discloses wherein delivering the information to one or more of the mobile terminals comprises delivering the information to the mobile terminals wirelessly (col. 12, lines 35-37 of Ballantyne).

(I) Referring to claim 17, Ballantyne discloses a method of compiling a database of medical information, comprising:

- accessing a pre-existing database of medical records (col. 7, line 66 – col. 8, line 29 of Ballantyne);

- extracting therefrom said medical records (col. 13, lines 43-45 of Ballantyne);

- reformatting said medical records for delivery to mobile terminals (col. 14, lines 6-39 of Ballantyne) and displaying lab result information, vital sign information, and prescription information (col. 4, lines 35-36, col. 11, lines 18-22, and col. 17, lines 27-31 of Ballantyne; the Examiner interprets “temperature” and “pulse rate” to be forms of “vital sign information”); and

- storing said reformatted medical records in a computer memory of a mobile terminal (col. 15, lines 22-32 of Ballantyne).

Art Unit: 3626

Ballantyne does not disclose providing ergonomic icons to switch display between different classes of information in the medical record, wherein each ergonomic icon is large enough to allow actuation via a user's finger and the ergonomic icons include icons for invoking display of the information.

Brown discloses providing ergonomic icons to switch display between different classes of information in the medical record, wherein each ergonomic icon is large enough to allow actuation via a user's finger and the ergonomic icons include icons for invoking display of the information (Fig. 3, col. 4, lines 49-54, and Fig. 12 of Brown).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the features of Brown within Ballantyne. The motivation for doing so would have been to provide a user-friendly interface.

(J) Referring to claim 19, Ballantyne discloses updating said medical records with information provided by medical providers from mobile terminals (col. 12, lines 33-37 of Ballantyne).

(K) Referring to claim 21, Ballantyne discloses accessing reference material corresponding to the information and displaying the reference material (col. 5, lines 42-51 of Ballantyne).

(L) Referring to claim 23, Ballantyne discloses a system for delivering information to medical providers, comprising:

a computer for storing medical records (col. 4, lines 29-54 of Ballantyne);

a plurality of mobile terminals, wherein each mobile terminal comprises (col. 3, lines 60-65 of Ballantyne):

Art Unit: 3626

a controller; a display operatively connected to said controller; and means for communicating with a database comprising medical records; said medical records viewable on said display (col. 10, lines 37-51 and col. 13, lines 43-45 of Ballantyne); and

means for providing said medical records to one or more of said plurality of mobile terminals (col. 10, lines 10-27 of Ballantyne).

Ballantyne discloses a touch screen (col. 9, lines 16-20) but does not expressly disclose said display comprising one or more ergonomic icons for switching between different classes of information in said medical records, wherein each ergonomic icon is large enough to allow actuation via a user's finger.

Brown discloses one or more ergonomic icons for switching between different classes of information in said medical records, wherein each ergonomic icon is large enough to allow actuation via a user's finger (Fig. 3, col. 4, lines 49-54, and Fig. 12 of Brown).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the features of Brown within Ballantyne. The motivation for doing so would have been to provide a user-friendly interface.

7. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ballantyne et al. (5,867,821) in view of Brown (5,918,603), and further in view of Walker et al. (US 6,302,844 B1).

Art Unit: 3626

(A) Referring to claim 3, Ballantyne and Brown do not disclose further comprising delivering one or more of said formatted medical records to a wireless telephone.

Walker discloses transmitting information to a cellular telephone (col. 4, lines 43-48 of Walker).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Walker within Ballantyne and Brown. The motivation for doing so would have been to use a known device capable of receiving and transmitting information (col. 4, lines 43-48 of Walker).

8. Claims 10-14 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ballantyne et al. (5,867,821) in view of Brown (5,918,603), and further in view of Chesanow ("PDAs for Doctors: Your ticket to fast, flawless prescribing").

(A) Referring to claim 10, Ballantyne does not disclose wherein providing each of a plurality of medical providers with a mobile terminal comprises initially giving at least one medical provider a mobile terminal free of charge.

Chesanow discloses wherein providing each of a plurality of medical providers with a mobile terminal comprises initially giving at least one medical provider a mobile terminal free of charge (page 7, para. 4 of Chesanow; the Examiner interprets "palm-size PDA" to be a form of "mobile terminal").

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Chesanow within Ballantyne. The motivation for

Art Unit: 3626

doing so would have been to encourage physicians to subscribe to the service (page 7, para. 4 of Chesanow).

(B) Referring to claim 11, Ballantyne does not disclose wherein providing each of a plurality of medical providers with a mobile terminal comprises subsequently selling mobile terminals to medical providers.

Chesanow discloses wherein providing each of a plurality of medical providers with a mobile terminal comprises subsequently selling mobile terminals to medical providers (page 7, para. 4 of Chesanow; the Examiner interprets "choose a Palm Vx for \$100" to be a form of "selling mobile terminals").

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Chesanow within Ballantyne. The motivation for doing so would have been for the hardware cost to be the responsibility of the customer (page 7, para. 4 of Chesanow).

(C) Referring to claims 12-14, Ballantyne does not disclose further comprising charging a fee for access to said information, wherein charging a fee for access to said information comprises charging a monthly fee for access to said information, and wherein charging a fee for access to said information comprises charging an annual fee for access to said information.

Chesanow discloses charging fees for access to said information (page 7, para. 4 of Chesanow; the Examiner interprets "\$20 a month" to be a form of "monthly fee" and "subscribe...for a year" to be a form of "annual fee").

Art Unit: 3626

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Chesanow within Ballantyne. The motivation for doing so would have been to compensate the provider for services rendered.

(D) Referring to claim 20, Ballantyne and Brown do not disclose a charge capture service to maintain a list of costs corresponding to services administered to a patient.

Chesanow discloses a charge capture service to maintain a list of costs corresponding to services administered to a patient (page 7, para. 6 of Chesanow; the Examiner interprets "capture patient billing data" to be a form of "charge capture service").

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Chesanow within Ballantyne. The motivation for doing so would have been to allow the user to view a record of the patient's billing information (page 7, para. 6 of Chesanow).

9. Claims 25-27 and 29-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ballantyne et al. (5,867,821) in view of Kilgore et al. (US 2002/0072911 A1).

(A) Referring to claim 25, Ballantyne discloses a method of providing medical records to a doctor treating patients within a medical facility, said method comprising (col. 12, line 66 – col. 13, line 10 and col. 1, lines 12-21 of Ballantyne):

providing the doctor with a mobile terminal having a memory for storing medical information regarding at least one patient (col. 15, lines 22-32 of Ballantyne);

Art Unit: 3626

providing a main database comprising the medical information regarding at least one patient (col. 7, line 65 – col. 8, line 2 of Ballantyne);

sending the medical information regarding at least one patient from the main database to the mobile terminal (col. 14, lines 6-10 and col. 13, lines 43-45 of Ballantyne);

receiving updated information from the doctor at the mobile terminal (col. 12, lines 33-37 of Ballantyne); and

maintaining the main database updated by transferring said updated information from said mobile terminal to said main database (col. 12, lines 33-37 and col. 12, line 48 – col. 13, line 1 of Ballantyne).

Ballantyne does not disclose wherein the main database comprises a census of each patient within the medical facility and an expected discharge time and does not expressly disclose displaying on the mobile terminal the medical information and ergonomic actuators that permit movement between different screens containing different classes of the medical information, wherein each ergonomic actuator is large enough to allow actuation via a user's finger.

Kilgore discloses wherein the main database comprises a census of each patient within the medical facility and an expected discharge time (para. 5 of Kilgore) and displaying on the mobile terminal the medical information and ergonomic actuators that permit movement between different screens containing different classes of the medical information, wherein each ergonomic actuator is large enough to allow actuation via a user's finger (para. 37 and para. 49 of Kilgore).

Art Unit: 3626

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the aforementioned features of Kilgore within Ballantyne. The motivation for doing so would have been to provide hospital management with information to make management decisions that maintain or improve the quality of the health care (para. 5, lines 1-6 of Kilgore) and to allow the user to activate certain functions by simply touching portions of the screen (para. 49 of Kilgore).

(B) Referring to claim 26, Ballantyne discloses wherein maintaining the main database updated by transferring said updated information from said mobile terminal to said main database comprises maintaining the main database updated by transferring said updated information from said mobile terminal to said main database through a docking station (col. 13, line 43-63 of Ballantyne).

(C) Referring to claim 27, Ballantyne discloses wherein maintaining the main database updated by transferring said updated information from said mobile terminal to said main database comprises maintaining the main database updated by transferring said updated information from said mobile terminal to said main database through a wireless area network (col. 12, lines 33-37 of Ballantyne).

(D) Referring to claim 29, Ballantyne does not disclose further including changing the expected discharge time for a patient based on updated information from the doctor.

Kilgore discloses further including changing the expected discharge time for a patient based on updated information from the doctor (para. 42, para. 98, and Fig. 13, item 242 of Kilgore).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Kilgore within Ballantyne. The motivation for doing so would have been to track patients and information related to the patients (para. 7, lines 1-2 of Kilgore).

(E) Referring to claim 30, Ballantyne discloses providing reference information to the mobile terminal upon receiving a request (col. 5, lines 42-51 of Ballantyne).

10. Claims 32 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ballantyne et al. (5,867,821) in view of Felsher (US 2002/0010679 A1), and further in view of Kilgore et al. (US 2002/0072911 A1).

(A) Referring to claim 32, Ballantyne discloses a method of maintaining records at a medical facility, said method comprising the steps of:

providing mobile terminals to a plurality of physicians (col. 3, lines 60-65 and col. 15, lines 2-20 of Ballantyne);

maintaining a database containing a medical status of a plurality of patients (col. 6, lines 47-57 of Ballantyne);

sending information regarding at least one patient to at least one of the mobile terminals (col. 14, lines 6-10 of Ballantyne);

receiving treatment updates from at least one of the mobile terminals (col. 15, lines 63-65 of Ballantyne);

updating the database to include the treatment updates (col. 12, lines 33-47 of Ballantyne).

Ballantyne does not disclose wherein each of said patient's medical status comprises an expected departure date and updating the database to include treatment updates comprises altering the expected departure date.

Felsher discloses wherein each of said patient's medical status comprises an expected departure date and updating the database to include treatment updates comprises altering the expected departure date (para. 56 and para. 65 of Felsher; the Examiner interprets "discharge" to be a form of "departure" and "service" to be a form of "treatment").

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Felsher within Ballantyne. The motivation for doing so would have been to keep a record of findings from discharge summaries (para. 10 of Felsher).

Ballantyne and Felsher do not expressly disclose displaying on the at least one mobile terminal the information and ergonomic actuators that permit movement between different screens containing different classes of the information, wherein each ergonomic actuator is large enough to allow actuation via a user's finger.

Kilgore discloses displaying on the at least one mobile terminal the information and ergonomic actuators that permit movement between different screens containing different classes of the information, wherein each ergonomic actuator is large enough to allow actuation via a user's finger (para. 37 and para. 49 of Kilgore).

Art Unit: 3626

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the aforementioned features of Kilgore within Ballantyne and Felsher. The motivation for doing so would have been to allow the user to activate certain functions by simply touching portions of the screen (para. 49 of Kilgore).

(B) Referring to claim 34, Ballantyne does not disclose wherein each medical status comprises a bill containing each service indicated in the treatment updates.

Felsher discloses wherein each medical status comprises a bill containing each service indicated in the treatment updates (para. 65 of Felsher).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Felsher within Ballantyne. The motivation for doing so would have been to keep track of all services provided to the same patient (para. 65, lines 16-24 of Felsher).

Response to Arguments

11. Applicant's arguments filed 8/16/07 have been fully considered but they are not persuasive. Applicant's arguments will be addressed hereinbelow in the order in which they appear in the response filed 8/16/07.

(1) Applicant argues that the keys in Brown are completely separate from the video display. Consequently, the keys are not ergonomic actuators within medical records displayed on a mobile terminal.

(2) Applicant argues that the Brown patent relates to keys, not icons, and respectfully requests the withdrawal of the rejection of claims 17, 19, 21, and 23.

(A) In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., that the keys are on the video display) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The Examiner respectfully submits that claim 1, for example, recites "providing ergonomic actuators, displayable on the mobile *terminal*...." It is readily apparent that Brown teaches ergonomic actuators on the mobile terminal (note Fig. 3 of Brown). In addition, Ballantyne teaches a touch screen (col. 9, lines 16-20).

(B) As per the second argument, the Examiner respectfully submits that the difference between an icon and a button was not explained in the response or in the Specification. As such, the broadest reasonable interpretation of an icon would include the keys disclosed in Brown.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not applied prior art teaches a handheld personal data assistant (PDA) with a medical device and method of using the same (US 6,558,320 B1 and US 2002/0002326 A1); and electronic data gathering for emergency medical services (US 2002/0004729 A1).

Art Unit: 3626


13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lena Najarian whose telephone number is 571-272-7072. The examiner can normally be reached on Monday - Friday, 9:30 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ln

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9-7-07


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